

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:12cv328**

**CARL E. MCADOO, EXECUTOR FOR )  
THE ESTATE OF CHARLES RAFORD )  
MCADOO, SENIOR, DECEASED, )  
                                    )  
Plaintiff,                     )  
                                   )  
                                   )  
v.                                 )  
                                   )  
                                   )  
**UNITED STATES OF AMERICA, et al., )  
                                   )  
Defendants.                     )  
                                   )****

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**ORDER**

Pending before the Court are the Motions to Dismiss [# 48 & #50] filed by Defendants. In response to these motions, Plaintiff filed a sixty-five page response and attached numerous exhibits. The Local Rules of this Court limit a response brief to twenty-five pages, and Plaintiff has not been granted leave of Court to file a brief in excess of this limit. LCvR 7.1(D). Moreover, the Court previously warned Plaintiff about attaching exhibits containing factual allegations. The Court's May 2, 2013, Order explained to Plaintiff that:

the Court will not consider any factual allegations raised for the first time in a response to a motion to dismiss. The Court will not consider exhibits attached to a Memorandum in Opposition in ruling on any motions to dismiss. Plaintiff should include any factual allegations that form the basis of Plaintiff's claims in the Complaint.

(Order, May 2, 2013, at p. 4.) In addition to spanning sixty-five pages, the

response contains numerous exhibits. Accordingly, the Court **STRIKES** the Response [# 51] and the various exhibits filed by Plaintiff [# 51 & # 52] from the record. The Court **DENIES as moot** the Motion to Restrict Exhibit 3 [# 53], Corrected Motion [# 54], and the Defendant's Motion for Extension of Time [# 55]. Plaintiff shall have until July 10, 2013, to file a response to the Motions to Dismiss that complies with the prior Orders of this Court and the Local Rules of this Court.

Signed: June 26, 2013

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

